

LABOR

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DIVISION OF PUBLIC SAFETY AND OCCUPATIONAL SAFETY AND HEALTH

Safety and Health Standard for Public Employees

Adopted Amendments: N.J.A.C. 12:100-4.2

Adopted: December 16, 2002 by Albert G. Kroll, Commissioner,
Department of Labor.

Filed: December 17, 2002 as R.2003 d.27.

Authority: N.J.S.A. 34:1-20, 34:1A-3(c) and 34:6A-25 et seq.

Effective Date: January 21, 2003.

Expiration Date: August 26, 2004.

Take notice that the Department of Labor is adopting a recent amendment to the information collection requirements in OSHA's regulation regarding Occupational Injury and Illness Recording and Reporting Requirements pertaining to hearing loss, 29 C.F.R. 1904.10. The amendment was adopted by the U.S. Secretary of Labor and published in the Federal Register on July 1, 2002. Adoption of the amended standard is necessary to comply with the 1995 amendments to the Public Employees Occupational Safety and Health Act, N.J.S.A. 34:6A-30 which require the Commissioner of Labor to adopt all Federal OSHA standards by reference upon adoption by the U.S. Secretary of Labor. The statutory requirement ensures that the State's Public Employees Occupational Safety and Health (PEOSH) program is at least as effective as Federal OSHA thereby making the program eligible for Federal approval and funding under the 1970 Federal Occupational Safety and Health Act.

The 1995 statutory amendments at N.J.S.A. 36:6A-30 provide that the adoption of Federal standards are not subject to the formal rulemaking requirements of N.J.S.A. 52:14B-4 but shall be duly adopted upon publication in the New Jersey Register. As a result, the Department has not held a public hearing or requested formal written comments on its adoption of the amended Federal standard.

Federal Standards Statement

The adopted amendment does not contain any standards or requirements which exceed standards or requirements imposed by Federal law. The amendment fulfills the State Legislature's mandate that the Department of Labor adopt Federal OSHA standards for its PEOSH program. As a result, the amendment is consistent with standards or requirements imposed by Federal law.

Full text of the adopted amendment follows:

Part 1904—(Amended)

1. The authority citation for part 1904 continues to read as follows:

Authority: 29 U.S.C. 657, 658, 660, 666, 673, Secretary of Labor's Order No. 3—2000 (65 FR 50017), and 5 U.S.C. 533.

2. Revise §1904.10 to read as follows:

§1904.10 Recording criteria for cases involving occupational hearing loss

(a) Basic requirement. If an employee's hearing test (audiogram) reveals that the employee has experienced a work-related Standard Threshold Shift (STS) in hearing in one or both ears, and the employee's total hearing level is 25 decibels (dB) or more above audiometric zero (averaged at 2,000, 3,000, and 4,000 Hz) in the same ear(s) as the STS, you must record the case on the OSHA 300 Log.

(b) Implementation.

1. What is a Standard Threshold Shift? A Standard Threshold Shift, or STS, is defined in the occupational noise exposure standard at 29 CFR 1910.95(g)(10)(i) as a change in hearing threshold, relative to the baseline audiogram for that employee, of an average of 10 decibels (dB) or more at 2,000, 3,000, and 4,000 hertz (Hz) in one or both ears.

2. How do I evaluate the current audiogram to determine whether an employee has an STS and a 25-dB hearing level?

i. STS. If the employee has never previously experienced a recordable hearing loss, you must compare the employee's current audiogram with that employee's baseline audiogram. If the employee has previously experienced a recordable hearing loss, you must compare the employee's current audiogram with the employee's revised baseline audiogram (the

audiogram reflecting the employee's previous recordable hearing loss case).

ii. 25-dB loss. Audiometric test results reflect the employee's overall hearing ability in comparison to audiometric zero. Therefore, using the employee's current audiogram, you must use the average hearing level at 2,000, 3,000, and 4,000 Hz to determine whether or not the employee's total hearing level is 25 dB or more.

3. May I adjust the current audiogram to reflect the effects of aging on hearing?

Yes. When you are determining whether an STS has occurred, you may age adjust the employee's current audiogram results by using Tables F-1 or F-2, as appropriate, in Appendix F of 29 CFR 1910.95. You may not use an age adjustment when determining whether the employee's total hearing level is 25 dB or more above audiometric zero.

4. Do I have to record the hearing loss if I am going to retest the employee's hearing?

No, if you retest the employee's hearing within 30 days of the first test, and the retest does not confirm the recordable STS, you are not required to record the hearing loss case on the OSHA 300 Log. If the retest confirms the recordable STS, you must record the hearing loss illness within seven calendar days of the retest. If subsequent audiometric testing performed under the testing requirements of the §1910.95 noise standard indicates that an STS is not persistent, you may erase or line-out the recorded entry.

5. Are there any special rules for determining whether a hearing loss case is work-related?

No. You must use the rules in §1904.5 to determine if the hearing loss is work-related. If an event or exposure in the work environment either caused or contributed to the hearing loss, or significantly aggravated a pre-existing hearing loss, you must consider the case to be work related.

6. If a physician or other licensed health care professional determines the hearing loss is not work-related, do I still need to record the case?

If a physician or other licensed health care professional determines that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure, you are not required to consider the case work-related or to record the case on the OSHA 300 Log.

7. How do I complete the 300 Log for a hearing loss case?

When you enter a recordable hearing loss case on the OSHA 300 Log, you must check the 300 Log column for hearing loss.

Note to 1904.10(b)(7): The applicability of paragraph (b)(7) is delayed until further notice.